

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF

P 17-0038

LBT Enterprises, LLC

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on May 10, 2017, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is a permit application from LBT Enterprises and is for a subdivision of two (2) parcels into nine (9) lots in the Rural Residential 1 and Rural Remote zoning districts of Grant County. The lots will range in size from 13.49 acres to 55.8 acres and will be for residential development.
2. The applicant is LBT Enterprises, LLC (Nick Tommer), PO Box 1150, Ephrata, WA 98823. The designated contact is Western Pacific Engineering & Survey.
3. The proposed project area is located at the intersection of Road 14 NW and Adams Rd. NW, in portions of the west half of Section 24, Township 21 North, Range 24 East, and the northeast quarter of Section 26, Township 21 North, Range 24 East, W.M., Grant County, WA. The parcel numbers are 15-1221-000 and 15-1217-000.
4. The zoning for the subject properties is Rural Remote and Rural Residential 1.
5. The zoning for neighboring parcels is: To the north, Agriculture; to the south, Rural Residential 1; to the east, Agriculture; and to the west, Agriculture.
6. The Comprehensive Plan designations for the subject properties are Rural Remote and Rural Residential 1.
7. The project was reviewed for compliance with SEPA and a Mitigated Determination of Non-Significance was issued by Grant County.
8. The project site was reviewed for Critical Areas pursuant to GCC § 24.08 and was found to be located within 300 feet of a known Washington Ground Squirrel colony. A habitat assessment and survey was completed by Dennis Beich of Ecosystems Northwest (March 12, 2017). A Ground Squirrel colony was located on the project site and a mitigation plan was prepared.
9. Information detailing this project was sent to agencies with jurisdiction for their review and comments on March 20, 2017. Property owners within 300 feet were also notified, and a

Notice of Application was published in the Columbia Basin Herald as well as being posted on-site.

10. The following agencies and County departments provided comments:
 - 10.1 Grant County Building & Fire Marshal responded on March 20, 2017;
 - 10.2 Grant County Health District #3;
 - 10.3 Grant County Public Works Department responded on March 22, 2017;
 - 10.4 Grant County Sheriff's Department responded on March 27, 2017;
 - 10.5 Quincy Columbia Basin Irrigation District responded on March 23, 2017;
 - 10.6 U.S. Bureau of Reclamation responded on April 4, 2017;
 - 10.7 WA State Department of Ecology responded on April 3, 2017 & April 20, 2017.
11. The following agencies were notified but did not respond:
 - 11.1 Grant County Fire District #3;
 - 11.2 Grant County PUD;
 - 11.3 Grant County Sheriff's Office;
 - 11.4 WA State Department of Health;
 - 11.5 Grant County Emergency Management;
 - 11.6 Grant County Noxious Weed Control Board;
 - 11.7 Grant County Auditor;
 - 11.8 Grant County Treasurer's office;
 - 11.9 WA State Department of Fish and Wildlife.
12. The application was determined to be technically complete on March 15, 2017.
13. The proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application Review Procedures" of the Grant County Unified Development Code.
14. Subject to the Conditions of Approval below, the proposal complies with Chapter 22.04 "Subdivisions and Plats" of the Grant County Unified Development Code.
15. The proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of the Grant County Unified Development Code. The project was found to be in proximity to known Washington Ground Squirrel colonies. The proposal was reviewed for compliance with SEPA. A Mitigated Determination of Non-Significance (MDNS) was issued by Grant County on April 7, 2017.
16. The project is not located within an Urban Growth Boundary.
17. The project is located in the Rural Remote and Rural Residential 1 zoning districts.
18. The residential density in the Rural Remote zone is one dwelling per 20 acres.
19. The residential density in the Rural Residential 1 zone is one dwelling per 5 acres.

20. The proposed lots will be served by individual septic systems.
21. A new Group B water system will provide potable water for the subdivision. The applicant has supplied a copy of a Water Right showing water is legally available. The applicant has also provided a well log showing that water is factually available.
22. The application was reviewed by agencies of jurisdiction. No comments were received that would prohibit approval of the proposed short plat.
23. No public comments were received on this proposal.
24. The site has a previously approved Conditional Use Permit (P16-0086) to allow rock crushing for material to be used in the construction of roads to serve project.
25. The Hearing Examiner finds that the proposed subdivision complies with the Criteria of Approval findings for a subdivision as outlined below.
26. The project meets the applicable Criteria for Approval as follows:
 - 26.1 The proposed subdivision does meet the applicable requirements of UDC Chapter 22.04 "Subdivisions and Plats;"
 - 26.1.1 The proposed subdivision complies with GCC 22.04 Subdivisions and Plats. The proposed preliminary subdivision as conditioned will comply with all applicable standards found in Grant County Code Chapter 22.04.
 - 26.2 The proposed subdivision does serve the public use and interest;
 - 26.2.1 This subdivision would serve the public use and interest. The plat would create additional residential lots at a rural density, which is one of the goals of the comprehensive plan and Unified Development Code. The public interest is served when the goals and policies of the Comprehensive Plan are met.
 - 26.3 The proposed subdivision does comply with the Comprehensive Plan, the Shoreline Master Program, the Zoning Code and other land use regulations, and SEPA;
 - 26.3.1 The proposal complies with the Comprehensive Plan as well as the Zoning Code, the proposed lots meets the density outlined in these documents. SEPA review was completed for the subdivision and a Mitigated Determination of Non-Significance was signed by Grant County on April 7, 2017. Additionally, the proposal is not located within 200 ft. of any shoreline and is therefore not subject to the Shoreline Master Program.
 - 26.4 The proposed subdivision does comply with the Health District requirements for sewage disposal and potable water supply;
 - 26.4.1 The subdivision proposed complies with Health District Requirements. The Health District was consulted, as well as State Department of Health,

and any comments have been included as conditions of approval. The applicant is proposing to serve the lots created through this plat with water provided by a new to-be-constructed Group B water system. This system will be designed by an Engineer and approved by the Grant County Health District. This will need to be completed prior to final subdivision approval. The lots will be served by individual septic systems. Site registrations will need to be completed for each lot. Conditions of Approval have been set accordingly.

- 26.5 The proposed subdivision does contain an accurate legal description of the lots being created, and the roads and easements therein;
 - 26.5.1 The subdivision does contain an accurate legal description. The application was reviewed by the Assessor's Office to ensure that a proper legal description was provided. Conditions of approval have been included to insure the legal description on the final plat will be accurate.
- 26.6 The proposed subdivision does comply with Grant County and, where applicable, all State Department of Transportation, regulations pertaining to roads, utilities, drainage, access for emergency vehicles and other infrastructure improvements;
 - 26.6.1 As conditioned this subdivision will comply with Grant County road, utility, drainage and emergency vehicle access standards. The application materials were sent to Grant County Public Works as well as the Fire Marshal's Office, and the local Fire District.
- 26.7 The proposed subdivision does comply with all requirements of the United States Department of the Interior, the Bureau of Reclamation, and/or a recognized Irrigation District when the proposed preliminary is within the boundaries of an Irrigation District;
 - 26.7.1 This application does comply with all requirements of the USBR and applicable Irrigation Districts. The application materials were sent to the Bureau and the Quincy Columbia Irrigation District.
- 26.8 The subdivision does comply with relevant City regulations pertaining to roads, utilities, drainage, access for emergency vehicles, and other infrastructure improvements for subdivision within an urban growth area;
 - 26.8.1 The proposed subdivision is not located within an Urban Growth Area and therefore does not have to comply with any City standards.
- 26.9 The subdivision does have A) adequate streets or roads, sidewalks or other public ways B) potable water supplies, sanitary wastes, and drainage ways C) open spaces, parks and playgrounds D) Schools and School grounds E) Landscaping, lighting—if required.

- 26.9.1 The proposed subdivision has adequate provision for streets and roads, as well as potable water supply and sanitary waste provisions. Parks, playgrounds, and schools were not required for a subdivision of this scale.
27. An open record public hearing after due legal notice was held on May 10, 2017.
28. The entire Planning Staff file was admitted into the record at the public hearing.
29. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
30. Appearing and testifying on behalf of the applicant was Nick Tommer. Mr. Tommer testified that he was an agent authorized to appear and speak on behalf of the property owners and applicant. Mr. Tommer testified that the Ground Squirrel buffer was not an issue due to the size of the lots. The Ground Squirrel site is located on one of the lots that is 13.5 acres in size. Finally, Mr. Tommer testified that all of the proposed Conditions of Approval were acceptable.
31. No member of the public appeared at the hearing.
32. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P17-0038 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with Grant County, except as modified by conditions below.
5. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including but not limited to:
 - a. The applicant/developer shall comply with all requirements of GCC 22.04, Article V "Final Subdivisions and Short Subdivisions" and other pertinent portions of Grant County Code.
 - b. The applicant/developer shall comply with all mitigation measures listed in SEPA Mitigated Determination of Non-Significance issued by Grant County on April 7, 2017.
 - c. Applicant shall ensure Best Management Practices are utilized to minimize the release of fugitive dirt and dust created from construction activities.
 - d. Pursuant to Grant County Code 23.12.070(k), a 100 foot setback from residential structures to property lines adjacent to Agriculture zoned properties shall be shown on the face of the plat.
 - e. The applicant shall comply with mitigation measures listed in Ground Squirrel Survey completed by Ecosystems Northwest dated March 12, 2017.
 1. Ground Squirrel colony "A" shall be delineated on the subdivision map with a 150 foot non-buildable buffer established around the colony.
 - f. Pursuant to Grant County Code 24.08.190(c), markers/signage shall be placed in the field (Lot 1) delineating the ground squirrel colony non-buildable buffer area.
 - g. It shall be the responsibility of the property owner (including subsequent owners) to maintain, including replacement of, the markers and signs in working order throughout the duration of the development. Removal of the markers will be considered a violation of Grant County Code.
6. The applicant shall comply with all requirements as deemed necessary by Grant County Public Works, including but not limited to:
 - a. Provide a plat check fee of \$200.00 for major plats.
 - b. Check the notes and corresponding numbers on the site plan and adjust accordingly. It would appear that the plat note numbers are off. Example: Note number 5 says 12' wide access and utility easement but shows the location as being the 30/30 County Road Right-of-Way; Note 4 is identified as a petition for establishment, etc.
 - c. New Road segment from Lot 4 to Lot 8 including cul-de-sac shall be built to Grant County Road Standard Section 2 and shall conform to Appendix B Figure 3-2-1, with the

- exception of the BST oil shots. Cul-de-sac shall be built per Grant County Road Standard Appendix B Figure 4-4.
- d. Approach permits shall be obtained for all lots prior to County Road Access.
 - e. Provide 20' radius at all Right-of-Way intersections.
 - f. Label all County Road names.
 - g. Prior to Grant County Public Works signing final plat all required road construction and improvements shall be completed and accepted by Public Works per County Road Standard, or a bond shall be put in place to ensure required work is complete.
 - h. No access hatching shall be added at the north east corner of Lot 3 for 100 feet to the west and 100 feet to the south. No access hatching shall be added at the southwest corner of Lot 4 for 100 feet to the north and 100 feet to the east.
7. The applicant shall comply with all requirements as deemed necessary by the Quincy Columbia Basin Irrigation District, including but not limited to:
- a. QCBID Short Plat Fee of \$50 for the first split (first two lots), plus \$10 each additional lot.
8. The applicant shall comply with all requirements as deemed necessary by the Grant County Health District, including but not limited to:
- a. Lots 2-9 must have a complete Site Registration.
 - b. Water system shall be completed prior to final plat.
 - c. Water system plans shall be designed by licensed Engineer, approved by Health District, and installed per approved plans.
 - d. Following installation a Construction Completion Report shall be submitted to Health District from design engineer.
9. The applicant shall comply with all requirements as deemed necessary by the Grant County Assessor's Office, including but not limited to:
- a. Legal description shall be amended so as not to include parcel number 15-1224-001 (labeled as "exception" on plat map).

Dated this 12th day of May, 2017.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.